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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

CHRISTIAN ANYIAM,

Plaintiff and Appellant,

v.

DEPARTMENT OF REAL ESTATE,

Defendant and Respondent.

E068839

(Super.Ct.No. CIVDS1611727)

OPINION

APPEAL from the Superior Court of San Bernardino County. David Cohn, Judge.

Affirmed.

Law Offices of Akudinobi & Ikonte and Chijioke O. Ikonte for Plaintiff and Appellant.

Xavier Becerra, Attorney General, Diane S. Shaw, Senior Assistant Attorney General, and Lisa W. Chao and Laura E. Robbins, Deputy Attorneys General, for Defendant and Respondent.

Christian Anyiam was both an attorney and a real estate broker. In 2015, as a result of his failure to pay sanctions awarded against him, as well as his failure to report the sanctions award to the State Bar, his license to practice law was suspended.

In 2016, as a result of his State Bar suspension, as well as his failure to report that suspension to the Department of Real Estate,<sup>1</sup> his real estate broker's license was revoked. He sought review of the revocation by filing an administrative mandate petition, which the trial court denied.

Anyiam appeals. He does not challenge the finding that there were grounds for discipline, but he does challenge the finding that revocation was the appropriate penalty. We agree with the trial court, however, that this finding was within the scope of the Department's discretion. Hence, we will affirm.

## I

### FACTUAL AND PROCEDURAL BACKGROUND

In 2001, Anyiam was licensed as an attorney.

In 2004, he was licensed as a real estate broker. However, he never practiced and never earned any money as a real estate broker.

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<sup>1</sup> From July 1, 2013 through December 31, 2017, the Department of Real Estate was known as the Bureau of Real Estate. (Compare Bus. & Prof. Code, § 10050, Stats. 2017, ch. 828, § 10, with Bus. & Prof. Code, former § 10050, Stats. 2013, ch. 352, § 17, and with Bus. & Prof. Code, former § 10050, Stats. 1976, ch. 375, § 4, p. 1022.) Thus, it is referred to in the record as the Bureau, but we refer to it as the Department.

In October 2010, in a case in Los Angeles Superior Court, Anyiam was ordered to pay \$3,000 in attorney fees and \$1,000 in sanctions within 30 days. He did not do so. He also did not report the sanctions order to the State Bar within 30 days, as required. (Bus. & Prof. Code, § 6068, subd. (o)(3).)

In August 2013, the State Bar brought disciplinary charges against him, based on both the failure to pay and the failure to report. “Anyiam stipulated to facts establishing his culpability” but “contest[ed] the mitigating and aggravating factors . . . .” He testified that he had been unaware of the 30-day deadline for payment. The State Bar Court found that this testimony was false. He also testified that he was “financially unable to pay” the sanctions and that he was unaware that he had to report them to the State Bar.

In July 2015, the California Supreme Court suspended Anyiam from the practice of law for one year, but this nominal suspension was stayed; instead, he was placed on probation for two years, with an actual suspension of 30 days.

Anyiam failed to notify the Department of this disciplinary action within 30 days, as required. (Bus. & Prof. Code, § 10186.2, subd. (a)(1)(C), (a)(2).)

In February 2016, the Department filed an accusation against Anyiam, based on the fact that he had been disciplined by the State Bar as well as on his failure to report the State Bar discipline to the Department.

In April 2016, an administrative law judge (ALJ) held an evidentiary hearing. At the hearing, Anyiam stated: “I’m not disputing the allegations. . . . All I’m here [for] today . . . is to present mitigating circumstances and exculpatory circumstances . . . .”

Nevertheless, he testified that he had been unaware that he had to report his State Bar discipline to the Department. He introduced evidence of his pro bono legal work and bar association participation. He also submitted favorable character evidence.

The ALJ issued a proposed decision revoking Anyiam's broker's license but allowing him to obtain a restricted salesperson's license, which could be elevated to an unrestricted salesperson's license after two years.<sup>2</sup> The ALJ found that his testimony that he was remorseful was "patently insincere." In June 2016, the Department adopted the decision of the ALJ.

In July 2016, Anyiam filed a petition for writ of mandate. It alleged that "the penalty is excessive as a matter of law . . . ." In May 2017, after hearing argument, the trial court denied the petition. It entered judgment accordingly.

## II

### THE DEPARTMENT'S PENALTY DETERMINATION

Anyiam contends that the revocation of his broker's license was an excessive penalty.

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<sup>2</sup> In general, a licensed broker and a licensed salesperson may carry out the same transactions, but a broker may do so on his or her own, whereas a salesperson may do so only as an employee of, and under the supervision of, a broker. (Bus. & Prof. Code, §§ 10131, 10132.)

A restricted license can be suspended without a hearing. (Bus. & Prof. Code, § 10156.7, subd. (b).) It may also include conditions (*id.*, § 10156.6, subds. (a)-(c)), such as a requirement that the licensee post a bond. (*Id.*, § 10156.8.)

A. *General Legal Principles.*

Under Business and Professions Code section 10186.2:

“(a)(1) A [real estate] licensee shall report any of the following to the  
[Department]: [¶] . . . [¶] . . .

“(C) Any disciplinary action taken by another licensing entity or authority of this  
state . . . .

“(2) The report required by this subdivision shall be made in writing within 30  
days of the date of . . . the disciplinary action.

“(b) Failure to make a report required by this section shall constitute a cause for  
discipline.” (See also Bus. & Prof. Code, § 10005, subd. (a).)

And under Business and Professions Code section 10177, “[t]he [Real Estate  
C]ommissioner may suspend or revoke the license of a real estate licensee . . . who has  
. . . : [¶] . . . [¶] . . .

“(d) Willfully disregarded or violated [a series of statutes including Business and  
Professions Code section 10186.2] . . . . [¶] . . . [¶]

“(f) . . . [H]ad a license issued by another agency of this state . . . suspended for  
acts that, if done by a real estate licensee, would be grounds for the suspension or  
revocation of a California real estate license . . . .” (See also *id.*, § 10003.)

“A trial court reviewing the administrative decision of the Commissioner to  
revoke the license of a real estate broker or salesperson must exercise its independent  
judgment on the evidence underlying that decision and determine whether the

Commissioner’s findings are supported by the weight of the evidence. [Citations.] The reviewing court then must determine whether the trial court’s factual findings concerning the truth of the accusations or alleged violations are supported by substantial evidence. [Citations.]

“A different rule applies when the issue is the nature of the penalty imposed. A court will not disturb the decision of the Commissioner on the penalty unless the licensee demonstrates an abuse of discretion. Neither a trial court nor an appellate court is free to substitute its discretion for that of an administrative agency concerning the degree of punishment imposed. [Citations.]” (*California Real Estate Loans, Inc. v. Wallace* (1993) 18 Cal.App.4th 1575, 1580.)

“Moreover, ‘[i]t is only in the exceptional case, when it is shown that reasonable minds cannot differ on the propriety of the penalty, that an abuse of discretion is shown.’ [Citation.]” (*Doe v. Regents of University of California* (2016) 5 Cal.App.5th 1055, 1106.)

B. *The Severity of the Penalty.*

Anyiam argues that revocation was excessive because, in the State Bar proceedings, the Supreme Court decided merely to suspend him temporarily rather than disbar him.

He has forfeited this contention by failing to support it with any citation to relevant authority. “[I]t is the responsibility of the appellant . . . to support claims of error with meaningful argument and citation to authority. [Citations.] When legal

argument with citation to authority is not furnished on a particular point, we may treat the point as forfeited and pass it without consideration. [Citations.]” (*Martine v. Heavenly Valley Limited Partnership* (2018) 27 Cal.App.5th 715, 728.)

In any event, the penalty imposed on him, as a lawyer, by the Supreme Court has no bearing on the penalty imposed on him, as a real estate licensee, by the Department. As mentioned, Business and Professions Code section 10177, subdivision (f) allows the Department to “suspend or revoke” a real estate license when the licensee has had “a license issued by another agency of this state, another state, or the federal government revoked or suspended . . . .” It does not prohibit the Department from revoking a real estate license when the other license has merely been suspended (nor vice versa).

Both the Supreme Court’s choice of penalty and the Department’s choice of penalty are discretionary. “To say that sentencing decisions are discretionary is to say that different reasonable decision makers . . . could arrive at different decisions, even on the same facts. So long as the decision ultimately made is supported by the reasons given for it, it is not so arbitrary and capricious as to constitute an abuse of discretion.” (*People v. Garcia* (1995) 32 Cal.App.4th 1756, 1771.) As with sentencing decisions, so, too, with professional disciplinary decisions.

Anyiam also argues, in shotgun fashion, that revocation was excessive because: (1) his misconduct did not involve moral turpitude; (2) his misconduct was due to mistake; (3) his misconduct did not harm any consumer; (4) he had no prior disciplinary history; and (5) he apologized for his misconduct and promised that it would not reoccur.

These factors are debatable. For example, the Department could reasonably find that his suspension by the State Bar *did* involve moral turpitude, because the State Bar found that he had testified falsely. “[H]onesty and truthfulness are required for the holder of a real estate license. [Citation.]” (*Robbins v. Davi* (2009) 175 Cal.App.4th 118, 126.)

Likewise, the Department was not required to accept that he was unaware of his duty to report the suspension of his law license. It had only his word for this. He had testified in the State Bar proceedings that he was financially unable to pay the sanctions, he did not know that he had to pay them within 30 days, and he did not know that he had to report them; the State Bar rejected this testimony. Moreover, it specifically found that he had testified falsely. It was fairly inferable that he knowingly and deliberately failed to report his State Bar suspension to the Department.

Next, while he had no prior disciplinary history with the Department, he did have the prior disciplinary history with the State Bar. The State Bar proceedings were based, in part, on a failure to report. Evidently he had not learned his lesson, as the Department’s proceeding involved another failure to report.

Last but not least, the ALJ found that his expressions of remorse were “patently insincere.” In other words, he was not truly apologetic and thus his misconduct could recur.



Anyiam claims there was no substantial evidence that he was not truly remorseful.<sup>3</sup> He claims “[h]e did not attempt to justify his failure to report the State Bar proceedings to the [Department].” Ah, but he did. He repeatedly testified that the failure was “not intentional” because he was supposedly unaware of the reporting requirement.

Admittedly, he also testified that he was “saddened,” “contrite,” and “remorseful.” However, the ALJ’s determination of his remorsefulness necessarily depended on a subjective evaluation of his demeanor. (Cf. *People v. Miranda* (2011) 199 Cal.App.4th 1403, 1414.) “The demeanor of witnesses is rarely reflected in the record. [Citation.] ‘As a reviewing court, we confront a cold record without the trial court’s benefit of observing firsthand the appearance and demeanor of the witness.’ [Citation.]” (*Ibid.*) “We defer to the [trier of fact] when it has had the opportunity to hear a witness speak and observe his or her demeanor. [Citation.]” (*Alcazar v. Los Angeles Unified School District* (2018) 29 Cal.App.5th 86, 98.)

In sum, on this record, we cannot say the Department abused its discretion. As the trial court noted, there were two separate grounds for discipline — the suspension of Anyiam’s law license, and his failure to report that suspension. In light of his earlier failure to report the trial court sanctions to the State Bar, this was recidivist conduct. In

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<sup>3</sup> This portion of his argument is captioned, “The decision to revoke Anyiam’s license was not supported by substantial evidence.” (Capitalization altered.) From the text, however, it is clear that he is not claiming that he did not commit misconduct; to the contrary, he states that he “never maintained his innocence in this case . . . .” He is merely arguing that “insofar as the decision to revoke the license was based on . . . not expressing remorse, the revocation cannot stand.”

addition, the ALJ (like the State Bar) found that he testified falsely. His claimed unawareness of the requirements of the law, even if believed, could be given little weight. As a professional, he had a duty to be aware of these requirements; such unawareness was negligent, at best.

Most significantly, while Anyiam's unrestricted broker's license was revoked, he was allowed to obtain a restricted salesperson's license, which would enable him to work under a broker. And he had never actually worked as a real estate broker. Thus, the revocation was scarcely a hardship — indeed, it was hardly a punishment at all.

C. *The Constitutionality of the Penalty.*

Anyiam also argues that the revocation was unconstitutional because there are no guidelines as to when or whether misconduct will result in revocation; thus he had no “notice that the failure to report the punishment by the State Bar would result in the ultimate sanction, to wit, revocation of license.”<sup>4</sup> Once again (see part II.B, *ante*), he has forfeited this argument by failing to cite supporting authority.

Separately and alternatively, this contention lacks merit. All due process required was notice of the *range* of potential penalties. (See *Beckles v. United States* (2017) \_\_\_ U.S. \_\_\_, \_\_\_ [137 S.Ct. 886, 893] [“our cases have never suggested that a defendant can successfully challenge as vague a sentencing statute conferring discretion to select an appropriate sentence from within a statutory range, even when that discretion is

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<sup>4</sup> Somewhat unhelpfully, the Department does not respond to this particular argument.

unfettered.”].) Business and Professions Code section 10177 gives due notice that the maximum penalty is revocation. (See also *Arneson v. Fox* (1980) 28 Cal.3d 440, 449 [rejecting claim that Bus. & Prof. Code, § 10177, subd. (b) “improperly vests uncontrolled discretion in the commissioner.”].)

### III

#### DISPOSITION

The judgment is affirmed. The Department is awarded costs on appeal against Anyiam.

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RAMIREZ

P. J.

We concur:

MILLER  
J.

SLOUGH  
J.